

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MONER SALEH,

Plaintiff,

v.

DIGITAL REALTY TRUST, INC. and PAUL
BAMRICK, in his individual and professional
capacity,

Defendants.

Case No.: 21-cv-9005

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, et seq., Defendants Digital Realty Trust, Inc. and Paul Bamrick (“Defendants”), by and through their attorneys, Ogletree, Deakins, Nash, Smoak & Stewart, P.C., file this Notice of Removal with respect to the case identified as “*Moner Saleh v. Digital Realty Trust, Inc. and Paul Bamrick, in his individual and professional capacity*,” Index No. 159045/2021, from the Supreme Court of the State of New York, County of New York. In support of this Notice, Defendants state as follows:

TIMELINESS OF REMOVAL

1. On or about October 4, 2021, Plaintiff Moner Saleh (“Plaintiff”) filed a Summons and Complaint with the Supreme Court of the State of New York, County of New York. A true and correct copy of the Summons and Complaint is attached hereto as Exhibit A.
2. On October 7, 2021, Plaintiff served the Summons and Complaint upon Defendants.
3. This Notice of Removal is timely filed because such notice is filed within thirty (30) days after Defendants were first served with the Summons and Complaint. See 28 U.S.C. §§ 1446(b)(3).

VENUE

4. The Supreme Court of New York, County of New York, is located in the United States District Court for the Southern District of New York.

5. Therefore, venue for purposes of removal is proper under 28 U.S.C. § 1446(a) because the Southern District of New York is the district court for the district and division within which the Complaint is pending.

BASIS FOR REMOVAL: DIVERSITY OF CITIZENSHIP

6. This Court has original jurisdiction over this action pursuant to 28 U.S.C. § 1332(a), in that it is a civil action in which the matter in controversy exceeds \$75,000, exclusive of interest and costs, and is between citizens of different states.

7. At the time this action was commenced, Plaintiff was a resident and citizen of the State of New York. (Ex. A, ¶ 13.)

8. Digital Realty Trust, Inc. is not a citizen of the State of New York within the meaning of 28 U.S.C. § 1332(c)(1). Digital Realty Trust, Inc. is a Maryland corporation with its principal place of business in the State of Texas. A true and correct copy of the Declaration of Justin Landfair is attached hereto as Exhibit B, ¶¶ 4-5.

9. Paul Bamrick is not a citizen of the State of New York within the meaning of 28 U.S.C. § 1332. Paul Bamrick is a resident and citizen of the State of New Jersey. (*Id.*, ¶ 6.)

10. As part of the Complaint, Plaintiff has alleged damages in excess of the \$75,000 threshold under 28 U.S.C. § 1332(a), in that he is seeking back pay, front pay, compensatory damages for economic loss, mental anguish, and emotional pain and suffering, and punitive damages. (Ex. A, p. 11.) *See Scherer v. Equitable Life Assurance Soc'y*, 347 F.3d 394, 397 (2d

Cir. 2003) (noting the burden to show a reasonable probability that a claim exceeds the jurisdictional limit is “hardly onerous”).

11. Accordingly, this case is a civil action that is based upon diversity of citizenship, and is therefore one which may be removed from the Supreme Court of the State of New York, County of New York, pursuant to 28 U.S.C. § 1441(b).

12. Defendants will serve copies of this Notice of Removal upon Plaintiff and file a copy with the Clerk of the Supreme Court of the State of New York, County of New York, to effect removal of this action to the United States District Court pursuant to 28 U.S.C. § 1446(d).

13. WHEREFORE, Defendants respectfully notifies Plaintiff and this Court of the removal of this action from the Supreme Court of the State of New York, County of New York, to the United States District Court for the Southern District of New York.

Dated: New York, New York
November 2, 2021

Respectfully submitted,

OGLETREE, DEAKINS, NASH,
SMOAK & STEWART, P.C.

By: /s/ Jamie Haar

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Supreme Court of the State of New York
New York County
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New York, New York 10007
(with Notice to State Court of Removal of Action to Federal Court)

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